

Title: Retention of DNA & Fingerprints by Police Lead department or agency: Home Office Other departments or agencies: National Policing Improvement Agency	Impact Assessment (IA)
	IA No: HO0030
	Date: 10/01/2011
	Stage: Final
	Source intervention: Domestic
	Type of measure: Primary legislation

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The Coalition Government, in its 'Programme for Government', committed to 'adopting the protections of the Scottish model' and these provisions will achieve that policy intention. Also, the European Court of Human Rights (ECtHR) held on 4 December 2008 in the case of S & Marper vs. the UK that retaining indefinitely fingerprints and DNA from those arrested but not convicted was a breach of Article 8 (right to private life). Although the court accepted that the retention pursues the legitimate purpose of the detection and prevention of crime, it found that the "blanket and indiscriminate nature" of the retention powers was disproportionate to those aims and failed to strike a fair balance between the public interest in preventing crime and the rights of the individual to private life.

What are the policy objectives and the intended effects?

The establishment of a retention framework which achieves the right balance between the rights of the individual and the wider needs of public protection and which complies with the ECtHR judgment. The policy seeks to balance individual freedoms with the risk to public protection through destruction of data which could be significant to the detection and prevention of crime.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

DNA PROFILES: Option 1 – Do nothing; Option 2 – Automatic deletion of profiles after appropriate retention periods.

DNA SAMPLES: Option A – Do nothing; Option B – Destruction of samples after maximum of six months.

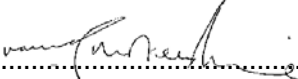
FINGERPRINTS: Option I – Do Nothing; Option II – Destruction of fingerprints in line with DNA profile retention period.

Options 2, B and II are the preferred options.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will not be reviewed
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	No

Ministerial Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:  Date: 28 February 2011

Summary: Analysis and Evidence

Policy Option 2, B & II

Description:

Automatic deletion of DNA profiles and destruction of fingerprints after appropriate retention periods and destruction of DNA samples after a maximum of six months

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £24.1m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		£10.8m	£3.1m

Description and scale of key monetised costs by 'main affected groups'

There would be a cost of around £300k to reprogram the computer software to delete DNA profiles and fingerprint records. It would cost £4.3m to delete orphaned profiles. We estimate that to destroy DNA samples would cost around £188k (one-off) plus a small amount per year thereafter, while re-sampling those re-arrested (whose data would previously have been retained) will cost approximately £2.3m annually. To destroy paper records of fingerprints would cost around £6.0m (one-off) and 367k/year. There will also be a cost of £500k per annum to cover the operating costs of the independent Commissioner for the Retention and Use of Biometric Material.

Other key non-monetised costs by 'main affected groups'

There would be costs of destroying fingerprint and DNA records of under-18s after five years for those individuals that have been convicted for the first time.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		
High			
Best Estimate			£7.3m

Description and scale of key monetised benefits by 'main affected groups'

It costs around 90p/year to store each DNA sample in a fridge. Under the option of destroying all DNA samples this cost would not occur. Given the large number of samples that would need to be removed we have estimated a saving of around £7.3m/year. While most of this saving would accrue to the (public & private sector) forensic science providers under the new National Forensics Framework Agreement (NFFA), that saving ought to be available to be offset against the destruction costs set out above.

Other key non-monetised benefits by 'main affected groups'

There are benefits of having a defined retention period, as there would be a greater probability of re-offending individuals being caught. However, this benefit would be lower compared to the 'Do nothing' case. There are also potential benefits from the proposed retention regime to individuals, due to enhanced privacy rights.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

DNA SAMPLES: We have assumed that there are around 6m legacy samples related to profiles on the National DNA Database. FINGERPRINTS: We have assumed that there would be around 2.13m legacy records for adults and under-18s respectively, of which around 1.8m are "back-log" records which would need to be destroyed in year 0 (implementation year).

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):		In scope Yes/No
New AB:	AB savings:	Net:	Policy cost savings:		

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	2012				
Which organisation(s) will enforce the policy?	NPIA, the police service and their contracted forensic science providers				
What is the annual change in enforcement cost (£m)?	Unknown				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits:		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	Yes	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	Yes	see Bill ECHR Memorandum
Justice Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainability Sustainable Development Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Implementation).

No.	Legislation or publication
1	The Programme for Government http://webarchive.nationalarchives.gov.uk/20100526084809/http://programmeforgovernment.hmg.gov.uk
2	Crime and Security Act 2010
3	Keeping the right people on the database: Science and public protection May 2009 [ARCHIVED CONTENT] Keeping the right people on the DNA database - consultation and response Home Office
4	<i>S and Marper v United Kingdom</i> [2008] ECHR 1581 http://www.bailii.org/eu/cases/ECHR/2008/1581.html

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* – (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	£10.8m	0	0	0	0	0	0	0	0	0
Annual recurring cost	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m
Total annual costs	£13.9m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m	£3.1m
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m
Total annual benefits	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m	£7.3m

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

In the Coalition 'Programme for Government' of 20 May 2010, the Government committed to 'adopt the protections of the Scottish model' and these proposals implement that commitment.

On 4 December 2008 the European Court of Human Rights (ECtHR) held in the case of *S and Marper* that retaining fingerprints, DNA samples and profiles from those arrested but not convicted indefinitely was a breach of Article 8 (right to private life). Although the court accepted that the retention pursues the legitimate purpose of the detection and prevention of crime, it found that the "blanket and indiscriminate nature" of the retention powers was disproportionate to those aims and failed to strike a fair balance between the public interest in preventing crime and the rights of the individual to private life. The previous Government conducted a public consultation document from 7 May until 7 August 2009 on proposals for a retention framework to comply with the Judgment and brought forward measures in what became the Crime and Security Act 2010.

A.2 Groups Affected

- Individual members of the public, who would be affected both in terms of the impact on their right to private life and more widely in terms of any impact of the policy on law and order and the detection and prevention of crime.
- Private sector firms; there are a very few number (only 5 are regularly involved) which provide DNA profiling services to law enforcement agencies. Whilst there would be no additional regulatory burden on these companies², there would be some additional business regarding the re-taking of samples from those rearrested whose profiles would previously have been retained.
- Law enforcement agencies. There will be some impact in terms of fewer DNA profiles being retained and therefore available for matching than the previous policy of indefinite retention. Other methods of detection, where available, are likely to be more costly or time consuming. However, the preferred option seeks to mitigate this impact.

B. Rationale

Experience in Scotland has shown that the retention of DNA and fingerprints from those charged with serious offences but not subsequently convicted is necessary to ensure that important detections are not lost. Research conducted in 2008 by Professor Jim Fraser, Director of the University of Strathclyde's Centre for Forensic Science³, found that "retention of forensic data for a three-year period, from individuals subject to proceedings for relevant sexual or violent offences but not convicted, is in principle, appropriate." Professor Fraser also found that "there was extensive support [for the Scottish model] in the consultation responses received. This included the views of police organizations and associations in addition to other agencies and individuals. Responses from independent groups were very positive with the Nuffield Council on Bioethics expressing the view that this approach was 'appropriate and balanced'. GeneWatch also responded in a similarly positive manner".

² All those companies providing forensic science services to the police service through the National Forensics Framework Agreement (NFFA) are already required to have their laboratories accredited to ISO 17025.

³ See <http://www.scotland.gov.uk/Publications/2008/09/22154244/15>

In addition, many organisations, in responding to the 2009 consultation on the DNA retention proposals of the last Government, considered that the Scottish model of DNA retention was considerably more proportionate than the proposals in the 2009 consultation document. These included Black Mental Health, the Equalities & Human Rights Commission, GeneWatch, Liberty and the National DNA Database Ethics Group. It is on this basis that a retention period of 3 years, extendable to a maximum period of 5 years on application to the courts, has been proposed for individuals charged with but not convicted of serious violent or sexual offences. Retention for the same period of 3/5 years will also be available in respect of those arrested but not charged with serious violent or sexual offences in certain circumstances, such as where the victim of the alleged offence is under 18 or otherwise vulnerable, with the consent of the Commissioner for the Retention and Use of Biometric Material.

As far as juveniles are concerned, there is no evidence to support a shorter period; in fact, the reverse is the case. However, the Government has taken account of the comments of the ECtHR in respect of children in terms of the needs of their development and integration into society as well as the results of the 2009 consultation exercise. In the light of this, while the Government is proposing an identical 3+2-year retention period for juveniles who have been charged but not convicted for serious offences, for those juveniles convicted for a first, less serious offence, it is proposing a significantly more lenient regime when compared with adults convicted of similar offences.

In regards to national security, the police and Security Service have made clear that those (national security) investigations, which include counter-espionage and counter-proliferation as well as counter-terrorism cases, can last considerable periods of time – in some cases, investigations into individuals have lasted as long as 25 years. A blanket, defined retention timeframe would therefore be damaging to national security.

Consequently, national security-related DNA profiles and fingerprints should be capable of being retained beyond any otherwise defined limit where there is a national security case for doing so. This would require a review every two years on a case by case basis, and all such determinations would be reviewed by the Commissioner for the Retention and Use of Biometric Material, who would be able to overrule the determination where the case was not made out. Data would also be deleted if it became clear between reviews that its retention would no longer be necessary.

C. Objectives

The development of a framework for the retention of biometric data, in particular in respect of those taken from people arrested and subsequently charged (or in tightly defined cases, when arrested but not charged) and not convicted, which achieves a proportionate balance between the rights of the individuals from whom the data has been taken to respect for private life and the wider interests of society in terms of the need to safeguard public protection.

D. Options

DNA PROFILES

Option 1 – Do Nothing

Continue to hold DNA profiles indefinitely for all individuals. This would not be compatible with the *S & Marper* ruling but is included as a baseline for comparison.

Option 2 – Automatic deletion of profiles after proposed retention period

2a. Adult (non-conviction) – Serious crime: Delete after 3 (+2) years

2b. Adult (non-conviction) – Minor crime:	Do not retain
2c. Under 18s (conviction) – Minor crime (1 st conviction):	Delete after 5 years [†]
2d. Under 18s (non-conviction) – Serious crime:	Delete after 3 (+2) years
2e. Under 18s (non-conviction) – Minor crime:	Do not retain

[†] – 5 years plus the length of any sentence of immediate custody imposed.

It should be noted that, under this option, adults who are convicted of a recordable offence, under-18s convicted of a serious offence, and under-18s who are convicted of a minor crime for the second time would have their profiles kept on the database indefinitely. Furthermore, both adults and juveniles who are arrested but not convicted could have their profiles retained on the grounds of national security beyond the retention periods set out above, reviewed on a 2-yearly basis by both a chief police officer and the Commissioner for the Retention and Use of Biometric Material.

DNA SAMPLES

Option A – Do nothing

Continue to hold DNA samples indefinitely for all individuals.

Option B – Destruction of all samples after maximum six months retention

All samples, for all individuals whether convicted or no further action taken, will be immediately destroyed once the profile has been successfully developed. The maximum period a sample may be stored for is 6 months.

FINGERPRINTS

Option I – Do nothing

Continue to hold fingerprints indefinitely for all individuals.

Option II – Destruction of fingerprint records in line with profile deletion policy

This policy option proposes to delete fingerprint records from IDENT1 and destroy paper copies of fingerprints for:

Ila. Adult (non-conviction) – Serious crime:	Destroy after 3 (+2) years
Ilb. Adult (non-conviction) – Minor crime:	Do not retain
Ilc. Under 18s (conviction) – Minor crime (1 st conviction):	Destroy after 5 years [†]
Ild. Under 18s (non-conviction) – Serious crime:	Destroy after 3 (+2) years
Ile. Under 18s (non-conviction) – Minor crime:	Do not retain

[†] – 5 years plus the length of any sentence of immediate custody imposed.

It should be noted that, under this option, adults who are convicted of a recordable offence, under-18s convicted of a serious offence, and under-18s who are convicted of a minor crime for the second time would have their fingerprint records kept indefinitely. Furthermore, both adults and juveniles who are arrested but not convicted could have their profiles retained on the grounds of national security beyond the retention periods set out above, reviewed on a 2-yearly basis by both a chief police officer and the Commissioner for the Retention and Use of Biometric Material.

E. Appraisal (Costs and Benefits)

DNA PROFILES

General Assumptions and Data

- All costs and benefits are compared against the ‘Do nothing’ (Option 1) case.

- It is assumed that for the automatic deletion of DNA profiles, there would be a one-off programming cost of around £300,000⁴ to re-programme and test the NDNAD, IDENT/1 and the Police National Computer (PNC)
- It is estimated that just over 1 million⁵ people with no recorded conviction are recorded on the NDNAD, around half of whom do not have a PNC record (known as ‘orphans’)⁶.
- Available data suggests that it would take 1 worker to locate 2.4⁷ profiles per hour, which equates to around 4000 profiles located per year per worker (7.12 hours in a working day and 220 working days in a year). Therefore we estimate that it would take around 140 staff to remove the orphaned profiles (530,000/4,000).
- Data provided by NPIA suggests that a police staff member’s salary, including non-wage costs such as accommodation, would be around £30,000.
- We assume that the staff would require half-a-day training at a one-off cost of less than £10,000 for all 140 staff.

Option 2 – Automatic deletion of profiles after proposed retention period

Costs

Under this option, we estimate that there would be a one-off cost to the public sector of around £300,000 for re-programming and testing the PNC, NDNAD and IDENT/1 software.

To remove the legacy orphaned profiles, we anticipate a one-off cost of around £4.2 million. This is based on approximately 140 workers at a total cost (salary plus on-costs) of around £30,000 searching and deleting the orphaned profiles. This cost also includes the associated £10,000 training cost.

There is a cost of re-sampling and deriving profiles that have been deleted in accordance with the timescales set out above. Analysis of the available data estimates that there are some 150,000 re-arrests per annum, 75% of which would need DNA to be re-profiled. At a unit cost of a DNA sample from taking to destruction of around £23 (of which around £3 is the sampling cost, which is carried out in all cases to simplify custody procedures), this would give an annual cost directly attributable to the adoption of the protections of the Scottish model of approximately £2.3 million.

The policy to retain the profiles of those that are arrested on the grounds of national security but not convicted would mean that the total cost would be lower. However, due to the small number of national security related profiles (hundreds) the overall impact on the costs would be negligible. In addition, there would be potential costs to the police and the courts if it was decided that the profile of certain individuals should be kept on the database for a further two years. Given insufficient data on the likely numbers of these individuals we are unable to monetise the costs. Nevertheless, the quantity is expected to be small and the cost would therefore be negligible.

Furthermore, there would be a cost of around £500,000 per annum in relation to the Independent Commissioner for the Retention and Use of Biometric Material, to cover the salaries and office costs of the Commissioner and a small supporting staff. This is based on the costs of other similar independent reviewer roles, with an uplift to reflect the additional level of work which the Commissioner is expected to have.

Therefore the total monetised cost of this option is estimated to be around £4.5 million (one-off) plus £2.8 million per annum (ongoing).

⁴ National Policing Improvement Agency (NPIA)

⁵ NPIA

⁶ ACPO Criminal Records Office (ACRO)

⁷ ACRO

Benefits

This option leads to far fewer profiles being retained compared to the 'Do nothing' option, although a significant number of profiles would still not be deleted at the end of the retention period, as they would have offended during the initial retention period.

In addition, there are potential benefits to the individual as they would have their privacy rights observed. We are unable to quantify this benefit due to a lack of available data.

	£
Cost of reprogramming all relevant IT systems	£300,000 (one-off)
Costs of tracing and deleting legacy DNA profiles	£4.2m (one-off)
Cost of re-profiling in re-arrest cases	£2.3m/year
Cost to the Independent Commissioner	£500,000/year
Cost of reviewing profile on the grounds of national security for those arrested but not convicted, every 2 years after initial retention period (Public Sector)	Negligible/year
Cost of reviewing to retain profiles for a further 2 years (Public Sector)	Negligible/year
TOTAL	£4.5m (one-off) + £2.8m/year
TOTAL (PV)	£28.2m

DNA SAMPLES

General Assumptions and Data

- All costs and benefits are compared against the 'Do nothing' (Option A) case.
- It is estimated that around 515k⁸ DNA samples are taken every year⁹.
- The latest available data (July 2010) suggests that there were around 5.9m¹⁰ profiles on the NDNAD that were derived from samples taken in England and Wales.
- The Forensic Science Service (FSS), who has 80 per cent of the market share, has estimated that the cost of destroying their legacy samples in bulk (i.e. without individual certification of destruction) would be around £150,000.
- It is therefore estimated that the cost of destroying a DNA sample would be around 3 pence. We have assumed this cost remains constant for new samples once the ongoing destruction process is in place.
- NPIA has estimated that the cost of storing a DNA sample in a fridge is around £4.50 for 5 years. Therefore, the cost of storing a DNA sample would be around £0.90 per year.
- However, as individual forces move onto the National Forensics Framework Agreement (NFFA), developed by the NPIA as part of the 'Forensics 21' work programme, the cost of storage passes contractually to the forensic science providers. As such, we have not assumed any cost benefit to the police service of the destruction of samples; in the short term, the majority of the benefit will accrue to the private sector providers, and in the long term, they will accrue all of the benefit.
- We assume an implementation date of early 2012. Furthermore, we have assumed a 10-year horizon for the cost/benefit analysis (CBA).

⁸ This figure is of individuals that are convicted and not convicted.

⁹ NPIA

¹⁰ NPIA. As at end of July 2010 there were around 5.9m sample profiles in the UK, of which around 93% were from England and Wales. This figure also includes volunteers (around 40,000).

Option B – Destruction of all samples after six months retention

Costs

As some six million samples would need to be destroyed in year 0 (2012), there would be a one-off cost of around £188,000.

We estimate that the ongoing cost of destroying the DNA samples would be around £16,000 per year. This is based on the 515k samples that would need to be destroyed at a cost of 3 pence each.

Therefore the total monetised cost of the option is estimated to be approximately £188,000 (one-off) plus £16,000 per year. This equates to a total PV cost of around £328,000.

Table E.1b Summary of Costs	
	£
Cost of destroying legacy samples (Public Sector)	£188,000 (one-off)
Costs of destroying DNA samples (Public Sector)	£16,000/year
TOTAL	£187,500 (one-off) + £16,000/year
TOTAL (PV)	£328,000

Benefits

Compared to the status quo, we estimate that there would be a potential refrigeration saving of around £7.3m per year. This is because, under the 'Do nothing' scenario, the cost of the samples that are refrigerated are accumulated over the years, and in this option these costs would not occur. However, those forces that have adopted the National Forensics Framework Agreement (NFFA) since its introduction in 2008 (all forces will have adopted it by May 2011) no longer pay for the storage of samples and the benefit would therefore accrue to the forensic science suppliers (both public and private sector) rather than the police service.

In addition, there are potential benefits to the individual as they would have their privacy rights observed. We are unable to quantify this benefit due to a lack of available data.

Table E.1c Summary of Benefits	
	£
Refrigeration savings (Public & Private Sector)	£7.3m
Benefits to individual due to privacy rights	Not Quantified
TOTAL	Negligible
TOTAL (PV)	£61.8m

FINGERPRINTS

General Assumptions and Data

- All costs and benefits are compared against the 'Do nothing' (Option I) case.
- We estimate that there would be around 115k individuals that would be arrested and/or charged but not convicted per year. This was calculated by averaging the 900k DNA profile records identified for removal between May 2001 and December 2008¹¹.
- Data provided by NPIA suggest that there were around 8m records in 2008. Assuming a 115k to 515k ratio of non-convicted to total (convicted plus not convicted), we

¹¹ NPIA

estimated that around 1.8m of these 8m records are for those individuals who were not convicted. We assume that in 2009-11 there would be an additional 115k non-convicted individuals added to the database each year, which gives a total of around 2.13m (non-convicted) fingerprint records. Of these, around 1.8m are “back-log” records, which will need to be destroyed in year 0.

- It is estimated that it would take around 10 minutes¹² to destroy a paper record of a fingerprint. Given that around 115k paper records would need to be destroyed each year, we estimate that it would take around 10 police staff to carry out this task¹³. It is likely that around 227 police staff would be required in Year 0 for the destruction of the legacy prints.
- Data provided by NPIA suggests that a police staff member’s salary, including non-wage costs such as accommodation, would be around £30,000.
- It is estimated that around 1 million¹⁴ records on the NDNAD that do not have associated convictions on the PNC. While around half¹⁵ of these do not have a PNC record (orphaned), NPIA advise that the proportion of orphaned records on IDENT/1 is significantly lower than for the NDNAD, with only around 41,000 orphaned records on IDENT/1.
- Latest available data suggests that it would take 1 worker to locate 2.4¹⁶ records per hour, which equates to around 4000 profiles located per year per worker (7.12 hours in a working day and 220 working days in a year). Therefore we estimate that it would take around 11 staff to remove the orphaned records (41,000/4,000).
- We assumed that the staff would require half-a-day training at a one-off cost of less than £1,000 for those 11 staff.
- We assume an implementation date of 2012. Furthermore, we have assumed a 10-year horizon for the CBA.

Option II – Destruction of fingerprint records in line with profile deletion policy

Costs

Under this option, the cost of automatically deleting the fingerprint records from IDENT/1 would be included in the £300,000 programming cost of NDNAD and PNC.

We estimate that the one-off cost of tracing and dealing with the so-called ‘orphan’ fingerprint records to be around £330,000 (11 staff at £30,000 each).

To deal with the back-log of legacy fingerprints, in both hard copy and (for orphans) on IDENT/1, we anticipate a one-off cost of around £5.7m. This is based on approximately 227 workers at a total cost of around £30k searching and deleting the orphaned records. This cost also includes the (one-off) training costs.

It is likely that it would cost around £367k per year for the 10 police staff to destroy the 115k paper copies of fingerprints (adults and under 18s).

The policy to retain fingerprints on the grounds of national security from some individuals who are arrested but not convicted would mean that the total cost would be lower. However, due to the small number of national security related records (hundreds), the overall impact on the costs would be negligible. In addition, there would be potential costs to the police and the courts if it was decided that the fingerprints of certain individuals arrested for qualifying offences should be kept on the database for a further two years. Given insufficient data on the likely numbers of these individuals, we are unable to

¹² NPIA

¹³ This is based on a police staff working 7.12 hours a day and 220 working days in a year.

¹⁴ NPIA

¹⁵ ACRO

¹⁶ ACRO

monetise these costs. Nevertheless, the quantity is expected to be small and therefore negligible.

Due to a lack of data, we are unable to quantify the costs of destroying paper copies of fingerprint records of under-18s convicted for the first time (but not for a second time within five years) and volunteers. However, due to the relatively small numbers involved¹⁷, it is likely that the cost would not be significant.

The total cost of this policy is estimated to be around £6.0m (one-off) plus £367k per year. This equates to a PV cost of around £9.2m.

Table E.2a Summary of Costs	
	£
Cost of destroying legacy fingerprint records (Public Sector)	£5.7m (one-off)
Cost of dealing with orphaned legacy fingerprint records (Public Sector)	£330k (one-off)
Ongoing cost of destroying fingerprint records (Public Sector)	£367k/year
Cost of reviewing fingerprint records on the grounds of national security for those arrested but not convicted, every 2 years after initial retention period (Public Sector)	Negligible/year
Cost of reviewing to retain fingerprints for a further 2 years (Public Sector)	Negligible/year
Cost of destroying records of under 18s convicted for the first time & volunteers (Public Sector)	Not Quantified
TOTAL	£6.0m (one-off) + £367k/year
TOTAL (PV)	£9.2m

Benefits

This option would lead to fewer fingerprints being retained compared to the ‘Do nothing’ option. That said, we have assumed that a significant number of records would still not be deleted or destroyed at the end of the retention period due to the level of probability that a previously arrested individual would have offended during this period.

In addition, there are potential benefits to the individual as they would have their privacy rights observed. We are unable to quantify this benefit due to a lack of available data.

F. Risks

DNA PROFILES

Option 2 – Automatic deletion of profiles after proposed retention period

There is the potential risk that the automated system would delete the wrong profile. Furthermore any error in data deletion could lead to a miscarriage of justice. Extensive testing of the automated system is included in the costs and would reduce this risk.

Due to the small number of profiles stored for national security purposes and the bespoke 2-year review process (stringent safeguards), the risk is significantly reduced that there would be an inadvertent deletion of an incorrect profile.

Compared to the ‘Do nothing’ option there is a risk of reduced detections because of the removal of material from unconvicted persons. Any risk would be offset to an extent (and

¹⁷ We estimate that around 40 per cent of those convicted for a first offence would not be convicted for a second offence within five years.

possibly cancelled out) by 1. additional matches from convicted persons added to the Database following the commencement of sections 2-7 of the Crime and Security Act 2010; and 2. the resampling on re-arrest of those who had previously been removed from the Database. However, we are unable to quantify either the risk or the degree of offset due to a lack of available data.

DNA SAMPLES

Option B – Destruction of all samples after six months retention

Under this option, there is a risk that should new techniques be developed to extract more information from a sample, then this could not be used on older samples. This may be mitigated in part by re-sampling the individual (though this may not be practical or appropriate in a large number of cases).

In addition, cases may be lost both domestically and abroad due to the inability to produce the original sample. This could be resolved by the possibility for retesting the individual where appropriate.

FINGERPRINTS

Option II – Destruction of fingerprint records in line with profile deletion policy

There is the potential risk that the automated system would delete the wrong record from IDENT1. Any error in data deletion could lead to a miscarriage of justice. Extensive testing of the automated system is included in the costs and would reduce this risk.

Furthermore, difficulties could be created in other areas where fingerprints are used. For instance it might not be possible to identify a body.

Due to the small number of fingerprints stored for national security purposes and the bespoke 2 year review process (stringent safeguards) – the risk is significantly reduced that there would be any inadvertent deletion of the wrong record.

Compared to the ‘Do nothing’ option there is a risk of reduced detections because of the removal of material from unconvicted persons. Any risk would be offset to an extent (and possibly cancelled out) by 1. additional matches from convicted persons added to the Database following the commencement of sections 2-7 of the Crime and Security Act 2010; and 2. the resampling on re-arrest of those who had previously been removed from the Database. However, we are unable to quantify either the risk or the degree of offset due to a lack of available data.

G. Enforcement

Sample and profile destruction programme to be overseen by NPIA and the NDNAD Strategy Board. An automatic deletion programme for profiles and fingerprints will be established. A separate system will be designed for the 2 year review process for national security related DNA based on a specific case by case process.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Table H.1 Costs and Benefits		
Option	Costs	Benefits

2	£4.5m (one-off) to delete orphaned profiles and re-programme computer software + £2.3m/year for re-profiling + £500k/year Commissioner costs	Benefits to individuals of having their privacy rights observed (not quantified)
	Cost of reviewing profiles of those arrested on the grounds of national security but not convicted, every 2 years after initial retention period. Negligible/year	
	Cost of reviewing to retain profiles for a further 2 years Negligible/year	
B	£188k (one-off) + £16k/year of destroying DNA samples	£7.3m/year refrigeration savings
		Benefits to individuals of having their privacy rights observed (not quantified)
II	£6.0m (one-off) + £367k/year of destroying legacy (hard copy) fingerprint records and dealing with orphaned records	Benefits to individuals of having their privacy rights observed (not quantified)
	Cost of deleting fingerprint records of under 18s convicted for the first time & volunteers (not quantified)	
	Cost of reviewing fingerprint records of those arrested on the grounds of national security but not convicted, every 2 years after initial retention period Negligible/year	
	Cost of reviewing to retain fingerprints for a further 2 years Negligible/year	
TOTAL	£10.8m (one-off) + £3.1m/year	£7.3m/year
TOTAL (PV)	£37.7m	£61.8m
NPV*	£24.1m	
* Net Present Value (NPV) = Benefits (PV) – Costs (PV). PV's have been discounted at 3.5% over 10 years.		
Source: ACRO, FSS, MoJ, NPIA		

The Government's preferred option is to: automatically delete DNA profiles after the proposed retention period (Option 2), destroy all DNA samples after six months retention (Option B), and destroy fingerprint records in line with the DNA profile deletion policy (Option II).

Although the preferred option results in a net cost, due to the European Court ruling, it would be illegal for the Government to maintain the 'status quo'.

I. Implementation

The Government plans to implement these changes in full within 6 months of Royal Assent of the Bill (planning for the destruction of legacy data is already underway).

J. Monitoring and Evaluation

The effectiveness of the new regime would be monitored by the National DNA Strategy Board (which the Protection of Freedoms Bill will put on a statutory basis) and the National DNA Database Ethics Group. There will be a separate process for the retention of national security related DNA which will provide the equivalent monitoring for classified material.

K. Feedback

Many organisations, in responding to the 2009 consultation on the DNA retention proposals of the last Government, considered that the Scottish model of DNA retention was considerably more proportionate than those proposals. These included Black Mental Health, the Equalities & Human Rights Commission, GeneWatch, Liberty and the National DNA Database Ethics Group. In the light of those representations, the Government does not propose to seek specific feedback on its proposals, which are closely modelled on the system in place in Scotland.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p>

Annex 2. Specific Impact Tests

Statutory Equality Duties

Equality Impact Assessment

No impact. The recommended policy options do not have a disproportionate impact on race, gender or disability.

Social Impacts

Human Rights

Compared to the 'Do nothing' case, the recommended policy proposals do not restrict an individuals right to privacy given that their profiles would be deleted after the retention period is over. Please refer to the ECHR Memorandum for the Protection of Freedoms Bill for further details.